

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-007-10022R

Parcel No. 8914-15-252-002

Steven and Janice Moore,

Appellants,

vs.

Black Hawk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 31, 2019. Steven Moore was self-represented. Black Hawk County Attorney Michael Treinen represented the Black Hawk County Board of Review.

Steven and Janice Moore own a residential property located at 2921 Stratford Court, Cedar Falls. The property's January 1, 2019, assessment was set at \$546,640. (Ex. B).

Steven Moore petitioned the Board of Review contending the assessment was not equitable compared to the assessments of other like property. Iowa Code § 441.37(1)(a)(1). The Board of Review lowered the assessment to \$542,780, allocated as \$65,640 in land value and \$477,140 in improvement value. (Ex. B). Moore reasserted his claim to PAAB, and also claimed the property is assessed for more than the value authorized by law. § 441.37(1)(a)(1 & 2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure

Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). PAAB determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a two-story home built in 2006. It has 3544 square feet of gross living area; a full basement with 850 square feet of living-quarters finish; a deck; and a 947-square-foot attached garage. It is listed in normal condition with high quality construction (grade 2+05). The site is 0.607 acres. (Ex. A).

Moore contends the assessment should be lowered to between \$498,292 and \$505,747. He based this conclusion on four different arguments that were outlined in Exhibit 1. He submitted seven total properties; five similar properties from his neighborhood which had not recently sold, and two recent sales. These seven properties are summarized in the table below.

Comp	Address	Site Area (Acres)	Year Built	Gross Living Area (GLA)	Bsmt Finish	Sale Date	Sale Price	2019 Assessed Values
SP	2921 Stratford Ct	0.607	2006	3544	850	NA	0	\$542,780
1	3005 Stratford Ct	0.667	2004	3938	0	NA	0	\$520,410
2	3208 Pendleton Dr	0.613	2005	3475	1150	NA	0	\$494,990
3	2907 Waterbury Dr	0.651	2007	3971	1600	NA	0	\$558,230
4	2907 Wellington Dr	0.648	2003	3667	1650	NA	0	\$553,380
5	3005 Wellington Dr	0.597	2002	3734	1050	NA	0	\$520,060
6	2908 Wellington Dr	0.722	2002	3647	850	6/2018	\$470,000	\$499,290
7	2907 Stratford Ct	1.22	2004	3586	1170	6/2019	\$485,000	\$475,860

Moore submitted five properties from subject's development. (Exs. 3-7). We note the subject's total assessment is within the range of these properties.

These properties have not recently sold but he calculated the average assessed-dwelling-value-per-square-foot for these five properties. The subject's assessed value per square foot is the highest of all of the properties. (Ex. 1). Moore then multiplies the subject's square footage by the average assessed-dwelling-value-per-square-foot of the five comparables. Adding the subject's assessed land value he opines a total assessed value of \$498,292 for the subject property. Moore does not believe he should be assessed higher than the average of these five properties. (Ex. 1).

His second method of calculating an assessed value uses the same five properties from above. He calculates these five properties had a 2.548% decrease in 2019 assessed values compared to their 2018 values. He believes the subject should receive the same decrease in assessed value. He estimates a 2019 assessment for the subject of \$505,747 after applying this percentage decrease to the subject's 2018 assessment. (Ex. 1, p. 2).

The Board of Review was critical of Moore's methodology because it is based on the average assessed value per square foot and does not account for differences in the properties such as "bathrooms, basement finish, decks, patios, porches, garage size, land, etc." (Ex. D, p. 2). Moore cited the *Eagle Foods* case and asserted the Supreme Court of Iowa ruled that like properties should be treated similarly.

Moore's third argument is based on two sales he submitted in support of his claim. Moore made no adjustments to the comparable sales to account for differences between these sales and the subject property or to arrive at an opinion of market value as of January 1, 2019. However, he believes that due to being similar in location, design, size, and age; the unadjusted sale prices show that his property is over assessed. Furthermore, he noted the 2019 assessment of these two properties were lowered from their 2018 assessment, which he believes shows a trend of over assessment. (Ex. 1, pp. 2-3).

While facially the properties appear to be similar to the subject, there are differences that require consideration. Specifically, 2907 Stratford Court has a lower quality grade, inferior deck, lower quality basement finish, and a smaller garage. 2908 Wellington Drive has inferior basement finish and no masonry exterior. (Ex. F). Additionally, the subject property has approximately 2700 square feet of living area on the first floor whereas both comparables have substantially less first floor living area (1966 and 2031 square feet, respectively). First floor living area tends to have greater value than basement or second story living area.

2908 Wellington Drive is the only 2018 sale Moore provided that could be used for a ratio analysis. Its assessed-value-to-sale-price ratio is 1.06.¹ A ratio below 1.00 indicates a trend of under assessment and a ratio over 1.00 indicates a property may be over assessed.

Moore also analyzed all properties located in the Lexington Subdivision. He testified his research indicated approximately eighty total properties in the subdivision and asserts all but one had a decline in their 2019 assessed value. He believes the subject property is the only property in the subdivision that had an increase in its assessment, which he asserts is inequitable.

The Board of Review states, and the record reflects, that Moore's property received an adjustment in 2011 and its assessment has not substantially changed since that time. (Ex. 2, A, D). The adjustment was removed for the 2019 assessment and the

¹ Sale ratio = (2019 assessed value/2018 sale price) = (\$499,290/\$470,000) = 1.06

Board of Review believes the 2019 increase in the subject's assessment was the result of correcting assessment inconsistency in a revaluation year. (Ex. D).

Moore concluded by stating he believed he had shown his property was over assessed and he has shifted the burden to the Board of Review. He does not believe they have supported the subject's value.

The Board of Review submitted seventeen 2017-2018 sales from subject's area. It asserts the subject's assessment is supported by these sales that show a median assessed-value-to-sale-price ratio of 99%, average ratio of 99.3%, and a mode of 99%. (Ex. E). Moore was critical of this information and believes it shows a great deal of variation even if the average is near 1.00. We note the table includes a property on the subject's street (3221 Stratford Ct) that sold in September 2018 for \$536,000.

The Board of Review further presented tables that illustrated the differences between the subject and Moore's seven submitted comparables. (Ex. F). The tables also show the valuation breakdown for each property demonstrating that a similar valuation methodology was used for all properties. (Ex. G). The Board of Review does not believe the *Eagle Foods* case is applicable because the same valuation methodology was used to value Moore's property as was used for other like property.

Analysis & Conclusions of Law

Moore contends the subject property is inequitably assessed and over assessed. § 441.37(1)(a)(1 & 2).

First, we wish to address an issue underlying these claims, which is the Assessor's removal of the 2011 Board of Review adjustment. The removal of this adjustment resulted in an increase of the subject's 2019 assessment whereas other properties in the record received a decrease.

In *Cott v. Bd. of Review of City of Ames*, the Iowa Supreme Court stated that previous court decrees have no preclusive effect on subsequent tax assessment because "each tax year is an individual assessment which does not grow out of the same transaction." 442 N.W.2d 78, 81 (Iowa 1989). The Court has also held, however,

that a presumption flows from a prior adjudication of a property's assessed value. *Metropolitan Jacobson Dev. Venture v. Bd. of Review of City of Des Moines*, 524 N.W.2d 189, 192 (Iowa 1994). " 'It is presumed that a valuation fixed by the court continues to be the true value of the property in subsequent years' unless a change in value is shown." *Id.* (internal citations omitted).

To the extent that any such presumption could extend from a board of review session, we find it does not apply here. Dispositive of the point, Moore is not asking for it to apply, but is seeking a valuation lower than the value set by the Board of Review in 2011. Aside from that, it is difficult for us to believe such a presumption should apply given the well-documented housing market recovery since 2011.

As a result, we do not find the Board of Review's removal of the 2011 adjustment in-of-itself to be unlawful, inequitable, or arbitrary. Rather, we focus on the 2019 assessment and whether the valuation arrived at for the subject is inequitable or excessive in light of Iowa statutory and case law.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). In *Eagle Food Centers*, after comparing the income approach used by the Assessor to value *Eagle Food Centers'* property with other shopping centers in the area, the Iowa Supreme Court found the assessor did not uniformly apply capitalization rates, vacancy rates, and other adjustments. *Id.* at 864-65. *Eagle Food Centers* requires an assessor to use a uniform methodology when valuing similarly situated properties, but does not require that the Assessor arrive at identical values on a per-square-foot basis.

Notably, in light of *Eagle Food Centers*, we are cognizant of the fact that in seeking an equitable remedy, Moore is asking for a different methodology to be used in arriving at his requested value than was applied to any other property in the record. No provision of Iowa law specifies that a property's assessment should be set based on the average assessed dwelling value per-square-foot of comparable properties or determined by the rate of change in assessments amongst properties. Rather, Iowa law

directs that, first and foremost, assessments should be based on sales. § 441.21(1).

When sales are not available, cost or income approaches to value can be used.

§ 441.21(2). Assessors are to value property using the IOWA REAL PROPERTY APPRAISAL MANUAL. § 441.21(1)(h).

We find no evidence that the Assessor applied an assessment method in a non-uniform manner. The Board of Review supports this conclusion with the cost breakdown of the subject property and Moore's seven comparables. (Ex. G). Ultimately, it is insufficient to simply compare the subject property's assessed value to the assessments of other properties or to compare the rate of change in assessment amongst properties to demonstrate inequity.

Additionally, we wish to note another problem with Moore's methodology for arriving at his requested equitable remedy. Because of the comparables utilized, application of an average dwelling value per-square-foot to the subject would not be reasonable and would likely undervalue the subject. Under the law of diminishing returns, larger properties are less valuable on per-square-foot basis than smaller properties, all else being equal.² Moore's comparables are generally larger than the subject and therefore we would, all else being equal, expect them to have a lower assessed value per-square-foot as compared to the subject. Use of an average assessed dwelling value per-square-foot derived from these comparables would be inconsistent with this valuation principle.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. *Id.* Moore submitted seven comparables including one 2018 sale. This one sale has an assessed-value-to-sale-price ratio of 1.06. In addition, to prevail under *Maxwell*,

² Diminishing return (also known as decreasing returns) is based on the premise that additional expenditures beyond a certain point will not yield a return commensurate with the additional investment. THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 32 (14th ed. 2013). See also INT'L. ASSOC. OF ASSESSING OFFICERS, PROPERTY ASSESSMENT Valuation 19 (3d. ed. 2010).

Moore must show the subject property's actual value to complete the ratio analysis. Because a showing of the subject's actual value is also required in an over assessment claim, we will forego further analysis of the inequity claim and turn our focus to the over assessment claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b).

Moore offered two recent sales located in close proximity to the subject and are similar in overall size. However, no adjustments were made for differences between them and the subject property. Sale prices must be adjusted "to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments". *Id.* at 783 (other citations omitted). Because of the differences between the subject and these comparables, we are not persuaded the unadjusted sales prices demonstrate the subject's assessment is excessive.

Based on the foregoing, we find that Moore has failed to show his property is inequitably assessed or has been assessed for more than the value authorized by law.

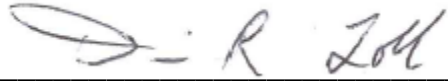
Order

PAAB HEREBY AFFIRMS the Black Hawk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).

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Dennis Loll, Board Member

A handwritten signature in dark ink, appearing to read "Elizabeth Goodman", written over a horizontal line.

Elizabeth Goodman, Board Member

Copies to:

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Black Hawk County Board of Review by eFile